

1964

CONGRESSIONAL RECORD — SENATE

now being burned and leveled because of the same reservoir project.

Much of the emotion over the uprooting of the Senecas derives from its violation of the Treaty of Canandaigua in 1794 to guarantee the reservations to the Senecas "until they choose to sell the same to the people of the United States." The guarantee was reinforced by a letter from President George Washington.

The Seneca Nation fought a long legal battle to keep the lands until they "choose to sell." But in 1959, the Supreme Court ruled against them.

The answers of the Senate and the House differ by a relatively minor amount in the sums assigned to direct and indirect damages for the actual property taken. The House bill provides \$2,322,335; the Senate bill is \$209,002 less.

It is in the so-called rehabilitation fund that the significant difference is found.

The Seneca Nation and Indian Bureau worked out a program of future development that admittedly tried to capitalize on the moral wrong in the treaty infringement.

As reduced somewhat by the House, the \$16,931,000 program would provide \$8 million for a Williamsburg-type Indian village and museum (Virginia's Williamsburg cost \$61 million), \$4.4 million for an industrial park in the Cattaraugus Reservation, \$2.3 million for a 20-year fund to finance higher education for Seneca youth, and \$2 million for new houses and community facilities.

The Senate abandoned this approach and chopped the rehabilitation fund to \$6.1 million, allowing the Indians to cut the pie the way they want to.

The picture of a \$20 million enterprise managed by a people who don't operate as much as a country grocery concerns some observers. So does a 268-acre industrial park in the hands of a people who dislike factory work.

Hughson Case, chairman of the Cattaraugus County Board of Supervisors, and others believe that some U.S. supervision will be needed for awhile. The Senecas don't disagree. Plans call for setting up separate business corporations with the approval of Federal authorities.

The \$8 million for tourist development is a substantial cut from the \$29 million recommended by the Brill Corp., U.S.-hired consultants, who got advice from the Williamsburg planners.

Brill said the Indian restoration is essential to attract tourists off main-traveled routes to a section that will be largely mudflats during the summer.

But George Heron, President of the Seneca Nation, calls the plan grandiose. The Indians have a more modest plan that can be accomplished for the \$8 million in the House bill.

They hope the foundations and private sources may contribute added funds. If private capital will build the motels and restaurants, the end result could approach the Brill vision.

The Indian village and museum would require at least 2 years of research to do properly, in the opinion of experts, and would require an estimated 10 years to develop.

SOME COMMENTS ON SENATE REPORT NO. 969
TO ACCOMPANY H.R. 1794, APRIL 17, 1964

H.R. 1794 is a bill to authorize taking Seneca Indian land for the Kinzua Dam project and "to provide for the relocation, rehabilitation, social and economic development of the members of the Seneca Nation."

The bill passed the House of Representatives without dissent February 7, 1964. With major amendments, H.R. 1794 was allowed to pass the Senate March 30, 1964, but many Senators have expressed their hope that the conference committee will correct two serious defects:

(1) By reducing the rehabilitation fund in the House bill 64 percent from \$16.9 to \$6.1 million the Senate destroyed most of its effectiveness and rejected the whole concept of appropriate reparations by genuine rehabilitation. The total reparations bill was cut 55 percent from \$20.2 million down to \$9.1 million.

(2) The Senate introduced without consideration in any public hearing a "termination" amendment which could well lead, if enacted, to the dissolution of the entire Seneca Nation of Indians.

The reduced rehabilitation fund will not provide new employment opportunities so desperately needed for Seneca Indians to enter with dignity the new and more expensive life into which they are being pushed, nor will it cover the educational and training scholarships required to prepare for constructive employment. The termination amendment would take away the Federal tax-exempt status of Seneca lands, permit their sale, eliminate hunting and fishing privileges and end annuity payments under the Seneca Treaty.

The report underestimates the damage inflicted by Kinzua Dam by suggesting that large areas of the reservation will still be usable.

On page 3 the report states:

"There will thus be left about 8,500 acres of dry land for permanent and unrestricted use by members of the Seneca Tribe residing on this reservation. According to testimony from the witness for the Corps of Engineers, approximately 5,000 acres of Seneca land within the taking area will be available for use by the Indians for farming, grazing, hunting, and other similar purposes, but not for habitation.

"The taking virtually cuts the reservation in two, leaving little more than hill sites * * * if the pool should reach maximum or close to it, it would be cut into much more than two parts. It would be repeatedly fragmented. Furthermore, when the proposed New York State Southern Tier Expressway comes into being, the reservation will again be cut, thus making four completely separate parts. Moreover, seasonal fluctuations in the pool level will result in extensive mudflats in the upper end of the reservoir and it is in this area that the bulk of the people and the residual lands will be located." Dr. Nash, Commissioner, Bureau of Indian Affairs, House hearings, page 300.

The report underestimates the number of families adversely affected.

On page 7 the report states:

"It should be pointed out that only 127 Seneca families, involving 482 people, are directly affected by the Kinzua Reservoir and only 8 individuals are actually making their living from the lands to be flooded."

Many more than eight individuals depend for a substantial portion of their subsistence on gardens, crafts, hunting, fishing, free water for the carrying, free sewage disposal, wood for the gathering. All that will no longer be possible. In the future, gas and water bills must be paid and food must increasingly be purchased. The new way of life will be a more expensive way for most of the families required to move. An adequate standard of living will be even more expensive, since many Senecas already suffer from unemployment and economic deprivation.

The report ignores the spiritual damage to the Seneca Nation and its members.

When George D. Heron, president of the Seneca Nation, appeared before the Senate subcommittee March 2, 1964, he said:

"Our first experience with congressional committees occurred in 1957 when we appeared before the House Appropriations Committee in opposition to the construction of Kinzua Dam. Since that time we have attended many other hearings * * * there has been a complete disruption in a way of life

which we Senecas had so long enjoyed. * * * I am here to tell the members of this committee that a severe mental disturbance has existed on the Allegany Reservation for the past 7 years. * * * We would trade this bill (the House version) for our homeland now. We would still take our homeland and you can take the bill." (Senate hearings, pp. 84, 124.)

THE REHABILITATION FUND

Opportunity, rather than cash, was the clear purpose of President Kennedy's directives to "the departments and agencies of the Federal Government to take every action within their authority to assist the Seneca Nation and its members who must be relocated in adjusting to the new situation." The President outlined four major rehabilitation objectives and asked that recommendations be prepared for legislation, if required to achieve them. He added, in his letter to the president of the Seneca Nation of Indians on August 9, 1961:

"I hope you will convey to the members of the Seneca Nation the desire of the Federal Government to assist them in every proper way to make the adjustment as fair and orderly as possible. I pledge you our cooperation."

With these directives in mind the Seneca Nation and numerous Federal agencies spent 2 years preparing recommendations for a genuine rehabilitation program designed to permit the Seneca Nation to recover from Kinzua damages and achieve a strong new pattern of life.

The Senecas worked out a plan for recreational and industrial development with the aid of a consulting engineering firm. The Bureau of Indian Affairs worked with the Seneca Nation to develop an educational program for a generation of Seneca children. The Senate cut the total rehabilitation fund by 64 percent and eliminated the educational program on the grounds that the proposed rehabilitation programs were "out of line with previous settlements" or could not be "justified on the basis of the loss the Senecas will sustain as a result of the Kinzua Dam" (p. 7 of the report). The feasibility of the programs was apparently never questioned. In fact the report points out that the facilities suggested would provide "numerous employment opportunities and possibly substantial income to the Nation" (p. 7).

The report's inadequate assessment of the Seneca Nation's loss has already been discussed. The comparisons with previous settlements are largely irrelevant for reasons given below. The report's use of per capita figures has no meaning, since none of the rehabilitation funds can be used for per capita payments. They are for the use of the tribe as a whole. Therefore, the important question is: Would the programs contribute significantly and effectively to the rehabilitation of the Seneca Nation, an objective which is clearly in line with President Kennedy's directives and with the whole concept of reparations by rehabilitation? The report has answered that question in the affirmative. But since comparisons with previous settlements are given such emphasis in the Senate report, the following points should be noted:

The settlement with the Lower Brule and Crow Creek Sioux Tribes was made on the basis of \$2,250 for every Indian on or off the reservation, whereas the formula suggested by the Senate for the Senecas differentiates between on-reservation and off-reservation Indians, with \$2,250 allocated to the 1,103 Indians residing on the Allegany Reservation; and the equivalent of \$1,200 to the other 3,000 Indians living outside the Allegany Reservation.

None of the previous reservations were as seriously fragmented as the Allegany Reservation is being fragmented. The Senecas are losing about 90 percent of their usable land.

Indians covered by the previous settlements have always been, and are still, eligible for the economic, social and educational programs provided through the Bureau of Indian Affairs. The Seneca Indians residing in New York State have not received such assistance for nearly two decades. The Bureau of Indian Affairs closed its New York State Agency about 1949.

The comparisons of living standards of eastern versus western Indians is also largely irrelevant.

On page 8 the report states:

"The committee notes the fact that the per capita income of the Seneca Tribe is substantially higher than that of most Indians residing in the West and that the need for a rehabilitation program in New York is considerably less than in other areas of the country."

But the Senecas do not live in the West. The Allegany Reservation is located in western New York in an area which is economically disadvantaged and yet the household income (median) for Seneca families in the take area is only \$3,285 or \$2,000 per year below the median family income for the county. The need for rehabilitation in western New York is not less than other areas of the country and the need for improved employment opportunities for the Seneca Nation of Indians is not less than in other tribes which have the benefit of economic development programs available through the Bureau of Indian Affairs, but not available to New York Indians.

The rehabilitation fund in H.R. 1794 should not in any case be considered on the basis of relative poverty of the Seneca Nation in comparison with other Indian tribes. The purpose of the rehabilitation fund in H.R. 1794 is to make appropriate and meaningful reparations for serious intangible damages being done to the Seneca Nation of Indians by the construction of the Kinzua Dam. While the incompensable nature of these damages seems incomprehensible to many Americans, it is nevertheless true that Seneca Indians now living in the area to be condemned would even now prefer their promised land guaranteed by treaty than to receive even twice the rehabilitation fund in the House-passed bill.

The report's assumption that Seneca rehabilitation can be assured through regular Federal programs is not warranted.

On page 7 the report states:

"It has been alleged that the geographical area in which the Senecas reside is a depressed one, but, if this is the case, it should qualify for assistance under the Area Redevelopment Administration or other Federal aid programs. This legislation should not be the vehicle for authorizing Federal grants to improve economic conditions not resulting from the Kinzua Dam and Reservoir project."

The Seneca Nation and those consulting with the Seneca Nation have had ample experience in seeking the assistance of Federal aid programs. In respect to Area Redevelopment Administration in particular, we were advised when seeking ARA assistance for economic development programs that the ARA was not established to meet the particular needs of the Seneca Nation of Indians in its attempt to cope with the disruption of its economic, social and cultural life by the Kinzua Dam. Therefore, the ARA specifically limited its services to the Seneca Nation with the understanding that special needs should be met instead by Congress. Now we find that the Senate proposes to pass the responsibility back to the executive agencies. The Senate does not wish the reassignment of a Bureau of Indian Affairs agency to the Seneca Nation, but at the same time the Senate seems unwilling to provide a rehabilitation fund which would permit the Seneca Nation to achieve once more the economic independence which all Indians once enjoyed so completely.

One of the desirable objectives in Seneca rehabilitation would be to establish cooperative interaction between the Seneca Nation of Indians and its non-Indian neighbors. An inadequate rehabilitation fund may only delay Seneca reconstruction and impose on both Seneca Indians and their non-Indian neighbors an increased dependence upon public assistance for the necessities of the more expensive new way of life into which they are being pushed.

The report justifies a reduced rehabilitation fund on the incorrect assumption that an adequate program would require reestablishment of a Bureau of Indian Affairs agency in New York State.

On page 8 the report states:

"The passage of H.R. 1794 with a rehabilitation program that would require approval of expenditure of funds by the Secretary will necessitate continued supervision through the Bureau of Indian Affairs.

"The committee does not believe the Bureau should return to the Seneca Reservation area on a long-term basis."

It is not true that a Seneca rehabilitation program would require the Bureau of Indian Affairs to "return to the Seneca Reservation area on a long-term basis." The BIA returned to the Seneca Nation only temporarily as a direct result of the Kinzua Dam disruption of the Seneca Nation of Indians. Completely effective alternatives for the management of new economic and educational programs are available.

The House-Senate Conference Committee on H.R. 1794 now faces a challenging opportunity to support a sound rehabilitation program and thereby demonstrate our national capacity to understand, appreciate and keep faith with our own American Indian citizens.

TERMINATION

The report reintroduces an old and discredited Federal policy—without consideration in any public hearing.

On page 8 the report states:

"A third substantive amendment recommended by the committee adds a new section 18 to the bill to provide that within 2 years following the date of enactment of H.R. 1794, the tribal council of the Seneca Nation will submit to the Secretary of the Interior proposed legislation providing for the termination of Federal supervision over the property and affairs of the tribe within a reasonable time thereafter."

Termination seems to Seneca Indians and their friends an added injury rather than any kind of reparations for damages resulting from the Kinzua Dam.

The amendment to terminate the Seneca Nation has added confusion and fear as well as amazement to the anxiety which already prevails among Seneca families because of their anticipated eviction within the next 6 months.

Tolerance for such further injury is understandably low since the families to be evicted do not yet have assurance of congressional funds to prepare relocation homes.

"RESOLUTION 94 MEMORIALIZING REINSTATEMENT OF AMOUNTS ALLOTTED BY THE HOUSE OF REPRESENTATIVES FOR THE SENeca INDIAN REHABILITATION PROGRAM BY THE SENATE SUBCOMMITTEE

"Whereas in connection with the Kinzua Dam project undertaken by the U.S. Army Engineers, huge portions of the Allegany Indian Reservation will be appropriated, requiring a great number of Seneca Indians to remove from the area taken; and

"Whereas the House of Representatives has, after considerable investigation and due deliberation had, recommended an appropriation of \$20 million for the rehabilitation program for these unfortunate Indians; and

"Whereas Senate subcommittees have seen fit to make drastic, inhuman and poorly conceived recommendations of reduced appropriations therefor; and

"Whereas it is believed that Senate subcommittees have allowed themselves to be governed by recommendations made in western areas which do not take into consideration numerous substantial differences which exist in connection with the Kinzua Dam property and which, therefore, should not have been given controlling influence, such as the breaking of the sacred treaty and the land values of the lands involved which are in no wise comparable and so complete a disruption of the established reservation lands; and

"Whereas through a succession of ages, the Seneca Indians have been the victims of financial and physical discrimination which more than entitle them to at least fair consideration in the present crisis; Now, therefore, be it

"Resolved, That the Cattaraugus County Board of Supervisors does hereby register its opposition to the proposed action of the Senate subcommittees in recommending the reduction of the recommended House of Representatives appropriation; and be it further

"Resolved, That the clerk of the board be, and he hereby is, authorized and directed to forward certified copies of this resolution to President Johnson, to Senators Javits and Keating, to Representative Goodell, and to the appropriate Senate subcommittees."

Adopted: April 8, 1964.

I, the undersigned, clerk of the Board of Supervisors of the County of Cattaraugus, N.Y., do hereby certify that I have compared the foregoing copy of Resolution 94 of the Board of Supervisors of said County of Cattaraugus with the original thereof on file in my office and duly adopted by said board at a meeting of said board on the 8th day of April 1964, and that the same is a true and correct copy of such resolution and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said county this 15th day of April 1964.

C. W. BAKER,
Clerk, Board of Supervisors,
Cattaraugus County.

'ANTI-SEMITISM' IN THE SOVIET UNION

Mr. KEATING. Mr. President, in a study prepared for the American Jewish Congress by Prof. Nicholas DeWitt of Indiana University, evidence is cited which establishes the fact of Soviet discrimination against members of the Jewish faith in access to higher education. The study points out that whereas in czarist Russia Jewish university students represented from 3 percent to 10 percent of enrollment at universities; under the Soviet regime only 3.22 percent of Soviet university students are Jewish.

Mr. President, Professor DeWitt's study also reveals that the total number of Soviet students has increased almost 250 percent between 1935 and 1960, but the number of Jewish students has declined 39 percent.

Further evidence of the discriminatory practices of the Soviet Government are evident in the preferential quotas established for members of nationality groups throughout the Soviet Union. Jews are not included in the preferential quotas and there can be no question that qualified Jews are excluded as a result of preferences for non-Jews of other national groups.

Mr. President, the protest at the Soviet Embassy in New York today, by the College Organization of United Synagogues, is further evidence of growing American concern over Soviet persecution of mem-